GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

MA&UD Department- Public Services – Implementation of orders of the Hon'ble APAT in O.A.No.5990 of 2011 and confirmed by the High Court in WP No.22564 of 2012 filed by Sri W.Giridhar Rao, Sweeper and Sri C.Venkaateswarlu, Sweeper, Rayadurg Municipality – Considering the regularization from the date on which the two(2) petitioners completed five(5) years of service instead of the prospective date and not entitled for arrears but only for notional fixation of pay, as a special case – Orders – Issued.

MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (D1) DEPARTMENT

G.O.Rt.No.451 Dated:19.07.2023

Read the following: -

1. G.O.Rt.No.1385 MA & UD Dept., Dated 16.11.2010.
2. From the of Hon'ble APAT orders Dated .15.07.2011 in O.A.No.5990/2011.
3. From the Hon'ble High Court of Andhra Pradesh, Orders Dated 15.02.2021 in W.P.No.22564/2012.
4. From the Hon'ble High Court of Andhra Pradesh, orders dt.05.07.2023 in W.P. No.8543 of 2021.
5. From the C&DMA, A.P., Vaddeswaram, Lr.Roc.No.14024/170/2023-D Sec. Dated.05.07.2023.

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ORDER:

Sri W.Giridhar Rao, Sweeper and Sri C.Venkateswarlu, Sweeper, Rayadurg Municipality filed OA No. 6483 of 2001 before the Hon'ble APAT seeking regularization of their services vide G.O.Ms.No.212, Fin&Plg.(FW.PC.III) Dept., Dt.22-04-1994, as they have completed five years of service as on 25-11-1993. The Hon'ble APAT was pleased to allow the said OA on 05-09-2007 directing the respondent authorities therein to regularize their services within a period of six weeks. Accordingly, their services were regularized through G.O.Rt.No.1385, MA&UD Dept., dt.16-11-2010 i.e., vide reference 1st read above with prospective effect.

2. Aggrieved by the orders issued vide reference 1st read above i.e., regularizing the services of the petitioners with prospective effect the petitioners have again approached the Hon'ble APAT by fling OA No.5990 of 2011 alleging the action of the respondents in regularizing the services of the petitioners/applicants with prospective date instead of regularizing their services with effect from the completion of 5 years or cut-off date i.e., 25-11-1993 as per the Government orders issued in G.O.Ms.No.212, dt.22-04-1994 as void illegal, arbitrary and consequently seeking a direction to the respondents to regularize their services with effect from 25-11-1993 as per the Judgement of Hon'ble Supreme Court of India reported in (2009) 8 SCC 480 with notional fixation of pay without back wages.

3. The Hon'ble APAT in its orders dated 15-07-2011 was pleased to direct as under.

> "..... **3. As the applicants also stand on the same footing in terms of the above orders passed in OA No.8095/2009 dated 09.01.2011, the OA is allowed, directing the respondents to regularize the services of the applicants with effect from the date on which they have completed five years of service and pass appropriate orders within a period of four weeks. But the applicants are not eligible for arrears of pay and are eligible for only notational fixation of pay."**

(Contd .2)

4. Against the said orders dt. 15-07-2011 of Hon'ble APAT the respondents have preferred an appeal by way of fling WP No.22564/2012 before the Hon'ble High Court, in which, the Hon'ble High Court in its orders dt.15-02-2021 was pleased to confirm the orders dt. 15-07-2011 passed by the Hon'ble APAT in OA No.5990 of 2011. The operative portion of the orders are as follows:-

" ..... **we have perused the material on record.**

In the light of the law declared in N. Venkaiah case (2018 (4) ALD 590), we choose not to interfere with the order of the Tribunal, since the other similarly situated employees have not approached the Tribunal and sought for similar relief and as such, the legitimate claim of the respondent herein cannot be denied.

In such circumstances, we find no reason to interfere with the order passed by the Tribunal and the Writ petition is liable to be dismissed."

5. It is stated that in Circular Memo No.573/225/A3/PC.III/97, dated 01-09-1997 the Finance Department issued instructions to the effect that "the regularization that are done as per the G.O.Ms.No.212, Finance Department dated 22-04-1994 is giving the benefit of regularize services to the person concerned only from the date of issue of the orders making it prospective".

6. Further, the individuals filed fresh WP.No.8543 /2021 with a prayer to implement the orders passed in O.A.No.5990/2011. The Hon'ble High Court on 20-04-2021 issued orders in the said WP. directing the respondents to file counter including compliance report by the adjourned date.

7. Again when the Hon'ble High Court issued orders on 28-6-2023, calling the respondents to appear before the Court on 5-7-2023, the respondents attended the court and the Hon'ble High Court passed orders to file counter including compliance report by 10-07-23.

8. Further, the Commissioner & Director of Municipal Administration, A.P., vide reference 5th read above submitted the detailed proposal to issue necessary orders for implementing the orders dated.15.07.2011 passed by the Hon'ble APAT and orders dated.15.02.2021 confirmed by the Hon'ble High Court in W.P.No.22564 of 2012, regularizing the services of Sri. C.Venkateswarlu, Sweeper and Sri W.Giridhar Rao Sweeper, Rayadurg Municipality from the dates 30.09.1989 and 04.02.1991 respectively

9. Government, after careful examination of the matter hereby decided to implement the orders passed by the Hon'ble APAT in O.A.No.5990/2011, dt.15.07.2011, which were confirmed by the Division Bench of Hon'ble High Court in WP No. 22564/2012 dt:15-02-2021, duly regularizing the services of the petitioners viz., Sri C.Venkateswarlu, Sweeper and Sri W.Giridhar Rao, Sweeper, Rayadurg Municipality from the dates 30.09.1989 and 04.02.1991 respectively, on which dates the petitioners have completed five years of servicer instead of regularization with prospective date already ordered vide reference 1st read above and subsequent orders of Municipal Commissioner, Rayadurg Municipality vide Proceedings No.432/C1/2008, dt:31-12-2010 and also they are not eligible to entitle for arrears of pay and allowances, but only for notional fixation of pay,as a special case, subject to the following :

i. Outcome of the S.L.P. in the Hon'ble Supreme Court (or) review petition in the Hon'ble High Court of A.P., as the case may be, to be filed by the Department against the orders in W.P. No. 22564/2012, dated 15-02-2021.

ii. review of the orders basing on the final orders in SLP (C) No. 28583 of 2018 & batch in the Hon'ble Supreme Court of India.

(Contd...3)

iii. that the orders issued shall not be quoted as a precedence in other similar/future cases.
iv. taking exemplary disciplinary action against the persons responsible for not taking appropriate action against the orders passed in OA No.5990/2011, dt.15-07-2011 of Honble APAT and confirmed by the Hon'ble High Court in WP No. 22564/2012, dated 15-02-2021r as per rules.

10. The Commissioner & Director of Municipal Administration, A.P., Mangalagiri shall take necessary action in the matter accordingly.

11. This orders issues with the concurrence of the Finance (HRa.III) Department vide their U.O.No.HROPDPP/265/2023 (Computer No.2134993), Dt.19.07.2023.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Y.SRILAKSHMI
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Commissioner & Director of Municipal Administration, A.P. Mangalagiri.
Individuals through the Commissioner & Director of Municipal Administration, A.P, Mangalagiri.
Copy to:
The Municipal Commissioner, Rayadurg Municipality.
The Principal Accountant General, A.P. Vijayawada.
The Director of Treasuries & Accounts, A.P, Vijayawada.
The District Treasury Officer, Ananthapuram District.
P.S. to Spl. Chief Secretary to Government, MA&UD Department.
OSD to Minister for MA&UD Department.
Finance Department.
Govt. Pleader for services of MA&UD, APHC.
SF/SCs(1446194).

// FORWARDED :: BY ORDER //

SECTION OFFICER